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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,092	04/06/2000	Christopher Weaver	13763	5001

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EXAMINER

RAEVIS, ROBERT R

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/819,092

Applicant(s)

WEAVER, CHRISTOPHER

Examiner

Robert R. Raevis

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 and 16-31 is/are rejected.
- 7) ☒ Claim(s) 15 (allowable material, if written into independent format) is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: .

### **DETAILED ACTION**

The first line of the first page of the written specification should refer to both the parent application, and its status.

Claims 16-25, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 16, "tap" (line 3, 5) into what?

As to claim 18, "external" (line 2) to what? What is this "tap" into?

As to claim 25, "tap" (line 3) into what?

As to claim 31, what does this material relate to in the drawings and/or written specification? Where does material first pass through the probe and then into an exhaust conduit in the drawings?

Claims 12, 16, 20, 26-31 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wendt.

Wendt teaches a system, including: probe 13, 15; regulating means for "isokinetic" (col. 4, line 15) controlling velocity, the regulating means including feedback 9-12; and filter 16 for capturing particulate matter.

As to claims 12, 16, 26, 27, elements 13, 15 may be called a probe, as they draw sample material from a stream within a flue 1.

Art Unit: 2856

As to claims 16, 26, lines 7 and 8 are tapped into structure, as they pass through flue 1 and one passes into nozzle 13.

As to claims 20, note the sensor 9.

As to claims 26, 27, 28, note the required "zero" (col. 4, line 3) pressure differential.

As to claims 29, 30, 31, note the feed back line 9, 10, 11, 12.

Claims 13, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendt.

As to claims 13, 14 and 22, Wendt's compressed air source (note compressed air line 20) and controllable valve 12 suggest application of a controllable pump as pumps allow for a required flow.

Claims 16, 17, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gijtsuin (JA 54-39189) in view of Wendt.

Gijtsuin teaches an isokinetic sampling system, including: probe 4; internal 9 pressure tap in the probe 4; external 14 pressure tap; flow control 6; and gauge 10 that allows for the control to create equal pressure as the two taps.

Gijtsuin's control (between elements 10 and 6) may be manual, as there is not structural connection apparent.

As to claims 16 and 25, it would have been obvious to employ a control between elements 10 and 6 as Wendt teaches use of a structural feedback system (elements 9-12) to provide for control as a function of the sensed parameter of interest.

Art Unit: 2856

As to claims 17, 24, 25, the tap 14 is on structure 11-13 formed a tube one the surface of the probe.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gijutsuin (JA 54-39189) in view of Wendt as applied to claim 17 above, and further in view of Huber.

As to claim 18, Huber teaches use of two externally mounted pressure taps to (in addition to two internally mounted pressure taps) to provide for consistent isokinetic sampling of a exhaust, suggestive of use of Huber's dual probe (38, and 34/36) and dual delta pressure sensors (30, 40) system in place of a single delta pressure gauge.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beaudin teaches a velocity measuring probe 44.

Bruce teaches use of two 40, 42 lines to measure internal pressure.

Strom et al employ a condenser 36.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to

Application/Control Number: 09/819,092

Page 5

Art Unit: 2856

4:00pm. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

*R. C. V. S.*

*RAEVIS*

*AU 2856*